



UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 13

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In re Application of :
MORRIS, MITCHELL JOSEPH AIOSA, et al. :
Application No. 09/699,776 :
Filing Date: October 30, 2000 :
Attorney Docket No. MJAM-1999-002 :

DECISION ON PETITION
Director's Office
Office of Patent Publication

This is a decision on the Petition To Withdraw The Notice Of Abandonment Under 27 [37] CFR 1.181, received in the United States Patent and Trademark Office (USPTO) on March 15, 2004. The petition was received in the deciding official's office, Office of Patent Publications, on February 16, 2005.

Petitioner states that the Applicant submitted corrected drawings on November 12, 2003. In support of this assertion, the petitioner has submitted a copy of the return postcard and copies of the papers submitted—Response To The Notice Regarding Drawings, Formal Drawings.

The petition is **DISMISSED**.

The Notice of Abandonment indicates that the application was held abandoned for applicant's failure to timely file corrected drawings as required in the Notice of Allowability mailed May 2, 2003.

Review of the application file shows that on September 11, 2003 the Office mailed the Notice Regarding Drawings, which indicated that the drawings received on October 30, 2000 were not acceptable. The applicant was given two months (not extendable under 37 CFR §§ 1.136(a) or (b)) to correct the informalities. Failure to respond within the set period would result in abandonment of the application.

On November 17, 2003 the USPTO received the applicant's Response To The Notice Regarding Drawings (Response) with a Certificate of Mailing (37 CFR § 1.8) executed on November 12, 2003 and 22 sheets of formal drawings. The Response, the Certificate of Mailing and the formal drawings are present in the application file.

The application was abandoned for application failure to timely respond to the Notice within the two month time period, which expired on November 11, 2003, and of which should have been so noted on the Notice of Abandonment.

Applicant should seek further relief by filing a Petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or 1203 of the Official Gazette 63, October 21, 1997, 65 FR 57057, Sept. 20, 2000.

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence or inquires with respect to filing a Petition For Revival Under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or 9283 or as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision should be directed to the undersigned at 703-305-9250.

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